

AMENDED IN SENATE MAY 13, 2014  
AMENDED IN SENATE APRIL 10, 2014  
AMENDED IN SENATE MARCH 20, 2014

**SENATE BILL**

**No. 909**

---

**Introduced by Senator Pavley**

January 23, 2014

---

An act to amend Section 369 of the Welfare and Institutions Code, relating to juveniles.

LEGISLATIVE COUNSEL'S DIGEST

SB 909, as amended, Pavley. Dependent children: health screenings.

Existing law provides that a child may become a dependent child of the juvenile court under certain circumstances, including in cases of abuse and neglect. Existing law authorizes a peace officer, without a warrant, to take a minor into temporary custody when there is reasonable cause to believe the minor comes within the jurisdiction of the juvenile court. Under existing law, a social worker is required to acquire the consent of a parent or permission from the court to authorize medical, surgical, dental, or other remedial care to a child who is in temporary custody. Existing law permits, under specified emergency conditions, a licensed physician to provide emergency medical, surgical, or other remedial care to a child in temporary custody without the consent of a parent or permission from the court.

This bill would additionally permit, *in the absence of a standing court order*, a social worker to authorize a noninvasive initial medical, dental, and mental health screening of a child in temporary ~~custody, without parental consent or a court order~~ custody. *The bill would require the social worker to make reasonable attempts to notify the parent that the*

*child will be undergoing a screening and to provide the parent with a reasonable opportunity to object. The bill would provide that if the parent objects, the screening may be conducted only upon the order of the court.* The bill would also add mental health care, as defined, to the medical and dental care that may be authorized for a child who is a dependent of the juvenile court, who is in temporary custody, or for whom a dependency petition has been filed.

Vote: majority. Appropriation: no. Fiscal committee: no.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

1 SECTION 1. The Legislature finds and declares all of the  
2 following:

3 (a) The state has a compelling interest in ensuring the physical  
4 and mental health of children in the child welfare system.

5 (b) Both the American Academy of Pediatrics and the Child  
6 Welfare League of America have found children entering foster  
7 care to be in poor health with chronic and acute health,  
8 developmental, and psychiatric disorders.

9 (c) The completion of an initial health screening will improve  
10 the health of children entering foster care.

11 SEC. 2. Section 369 of the Welfare and Institutions Code is  
12 amended to read:

13 369. (a) ~~Whenever~~ *(1) In the absence of a standing court*  
14 *order, whenever* a child is taken into temporary custody under  
15 Article 7 (commencing with Section 305), the social worker may  
16 authorize a noninvasive initial medical, dental, and mental health  
17 screening of the child, prior to the detention hearing held pursuant  
18 to Section 319, for any of the following purposes:

19 ~~(1)~~

20 (A) To determine whether the child has an urgent medical,  
21 dental, or mental health need that requires immediate attention.

22 ~~(2)~~

23 (B) To determine whether the child poses a health risk to other  
24 persons.

25 ~~(3)~~

26 (C) To determine an appropriate placement to meet the child's  
27 medical and mental health care needs identified in the initial health  
28 screening.

1     (2) *The social worker shall make reasonable attempts to notify*  
2 *the parent that the child will be undergoing a noninvasive initial*  
3 *medical, dental, and mental health screening, and shall provide*  
4 *the parent with a reasonable opportunity to object to this screening.*  
5 *If the parent objects, the screening may be conducted only upon*  
6 *the order of the court.*

7     (3) *For the purposes of this subdivision, a noninvasive initial*  
8 *medical, dental, or mental health screening shall be limited to a*  
9 *review of available health and developmental history, a standard*  
10 *review of systems, a measurement of the child's height, weight,*  
11 *and head circumference with percentiles, a taking of vital signs,*  
12 *and a physical examination by a physician or pediatric nurse*  
13 *practitioner to identify signs of acute and chronic illness. Physical*  
14 *examinations of children over three years of age shall not require*  
15 *the removal of the child's undergarments, and the child shall be*  
16 *provided with a dressing gown if the physical examination*  
17 *reasonably requires the removal of the child's outer clothing.*

18     (b) Whenever a child is taken into temporary custody under  
19 Article 7 (commencing with Section 305) and is in need of medical,  
20 surgical, mental health, dental, or other remedial care, the social  
21 worker may, upon the recommendation of the attending physician  
22 and surgeon or mental health provider, or, if the child needs dental  
23 care and there is an attending dentist, the attending dentist,  
24 authorize the performance of the medical, surgical, mental health,  
25 dental, or other remedial care. The social worker shall notify the  
26 parent, guardian, or person standing in loco parentis of the child,  
27 if any, of the care found to be needed before that care is provided,  
28 and if the parent, guardian, or person standing in loco parentis  
29 objects, that care shall be given only upon order of the court in the  
30 exercise of its discretion.

31     (c) Whenever it appears to the juvenile court that a child  
32 concerning whom a petition has been filed with the court is in need  
33 of medical, surgical, mental health, dental, or other remedial care,  
34 and that there is no parent, guardian, or person standing in loco  
35 parentis capable of authorizing or willing to authorize the remedial  
36 care or treatment for that child, the court, upon the written  
37 recommendation of a licensed physician and surgeon or mental  
38 health provider, or, if the child needs dental care, a licensed dentist,  
39 and after due notice to the parent, guardian, or person standing in  
40 loco parentis, if any, may make an order authorizing the

1 performance of the necessary medical, surgical, mental health,  
2 dental, or other remedial care for that child.

3 (d) Whenever a dependent child of the juvenile court is placed  
4 by order of the court within the care and custody or under the  
5 supervision of a social worker of the county where the dependent  
6 child resides and it appears to the court that there is no parent,  
7 guardian, or person standing in loco parentis capable of authorizing  
8 or willing to authorize medical, surgical, mental health, dental, or  
9 other remedial care or treatment for the dependent child, the court  
10 may, after due notice to the parent, guardian, or person standing  
11 in loco parentis, if any, order that the social worker may authorize  
12 the medical, surgical, mental health, dental, or other remedial care  
13 for the dependent child, by licensed practitioners, as necessary.

14 (e) Whenever it appears that a child otherwise within subdivision  
15 (a), (b), (c), or (d) requires immediate emergency medical, surgical,  
16 mental health, or other remedial care in an emergency situation,  
17 that care may be provided by a licensed physician and surgeon or  
18 mental health provider, or, if the child needs dental care in an  
19 emergency situation, by a licensed dentist, without a court order  
20 and upon authorization of a social worker. The social worker shall  
21 make reasonable efforts to obtain the consent of, or to notify, the  
22 parent, guardian, or person standing in loco parentis prior to  
23 authorizing emergency medical, surgical, mental health, dental,  
24 or other remedial care. "Emergency situation," for the purposes  
25 of this subdivision means a child requires immediate treatment for  
26 the alleviation of severe pain or an immediate diagnosis and  
27 treatment of an unforeseeable medical, surgical, mental health,  
28 dental, or other remedial condition or contagious disease which if  
29 not immediately diagnosed and treated, would lead to serious  
30 disability or death.

31 (f) In any case in which the court orders the performance of any  
32 medical, surgical, mental health, dental, or other remedial care  
33 pursuant to this section, the court may also make an order  
34 authorizing the release of information concerning that care to social  
35 workers, parole officers, or any other qualified individuals or  
36 agencies caring for or acting in the interest and welfare of the child  
37 under order, commitment, or approval of the court.

38 (g) Nothing in this section shall be construed as limiting the  
39 right of a parent, guardian, or person standing in loco parentis,  
40 who has not been deprived of the custody or control of the child

1 by order of the court, in providing any medical, surgical, mental  
2 health, dental, or other remedial treatment recognized or permitted  
3 under the laws of this state.

4 (h) The parent of a child described in this section may authorize  
5 the performance of medical, surgical, mental health, dental, or  
6 other remedial care provided for in this section notwithstanding  
7 his or her age or marital status. In nonemergency situations, the  
8 parent authorizing the care shall notify the other parent prior to  
9 the administration of that care.

10 (i) Nothing in this section shall be construed as limiting the  
11 rights of dependent children, pursuant to Chapter 3 (commencing  
12 with Section 6920) of Part 4 of Division 11 of the Family Code,  
13 to consent to, among other things, the diagnosis and treatment of  
14 sexual assault, medical care relating to the prevention or treatment  
15 of pregnancy, including contraception, abortion, and prenatal care,  
16 treatment of infectious, contagious, or communicable diseases,  
17 mental health treatment, and treatment for alcohol and drug abuse.  
18 If a dependent child is 12 years of age or older, his or her social  
19 worker is authorized to inform the child of his or her right as a  
20 minor to consent to and receive those health services, as necessary.  
21 Social workers are authorized to provide dependent children access  
22 to age-appropriate, medically accurate information about sexual  
23 development, reproductive health, and prevention of unplanned  
24 pregnancies and sexually transmitted infections.

25 (j) Nothing in this section shall be construed to affect the  
26 application of Division 105 (commencing with Section 120100)  
27 of the Health and Safety Code with regard to communicable disease  
28 prevention and control.

29 (k) This section does not authorize a child to receive  
30 psychotropic medication without the consent of the child's parent  
31 or guardian, or the court pursuant to Section 369.5.

32 (l) Nothing in this section shall be construed to supersede  
33 Section 319.1, 357, or 369.5, or Article 3 (commencing with  
34 Section 6550) of Chapter 2 of Part 2 of Division 6, with regard to  
35 the authorization for mental health services.

36 (m) Nothing in this section shall be construed to limit or expand  
37 the laws governing the confidentiality of medical records, the  
38 physician-patient privilege, or the psychotherapist-patient privilege.

39 (n) For purposes of this section, the following terms shall have  
40 the following meanings:

- 1     (1) “Mental health care” means the provision of mental health  
2 services, including assessment, treatment, or counseling, on an  
3 outpatient basis.
- 4     (2) “Mental health provider” has the same meaning as that term  
5 is defined in subdivision (a) of Section 865 of the Business and  
6 Professions Code.

O